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SENATE

{ REPORT
No. 652

SUPPLEMENTING THE ACT OF APRIL 26, 1906 (34 STAT. 137), ENTITLED "AN ACT TO PROVIDE FOR THE FINAL DISPOSITION OF THE AFFAIRS OF THE FIVE CIVILIZED TRIBES IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES"

AUGUST 11, 1959.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs, submitted the following

R E P O R T

[To accompany H.R. 2722]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2722) to supplement the act of April 26, 1906 (34 Stat. 137), entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

As amended and passed by the House on July 6, 1959, H.R. 2722 would provide for (1) the sale of approximately 16,500 acres of land held by or for the Choctaw Tribe of Indians, or its transfer to a tribal corporation or foundation; (2) the transfer to the corporation or foundation of those mineral interests which are excepted from the sale provisions of the bill; (3) a per capita distribution of the proceeds of the sale and of moneys on deposit in the Treasury to the credit of the tribe (now approximately \$433,000); and (4) the transfer of the entire interest in the land to the life tenants of the surface of certain allotted tracts. The bill also repeals a provision of the 1906 act relating to the Presidential appointment of the principal chief of the Choctaw Tribe. The bill is not applicable to individual Indian allotments and does not affect their trust or restricted status. It contains provisions designed to protect the interests of the Chickasaw Tribe in certain of the lands which are to be disposed of.

The 1906 act (34 Stat. 137) relating to the Five Civilized Tribes contemplated the final disposition of the affairs of the five groups of Indians. Enactment of H.R. 2722 is necessary in order to carry out the intent of the 1906 act. The bill was prepared for and introduced at the request of representatives of the Choctaw Tribe. No expenditure of Federal funds will be necessary in carrying out the provisions of the bill.

The favorable report of the Department of the Interior recommending the enactment of H.R. 2722 is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 20, 1959.

Hon. WAYNE N. ASPINALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. ASPINALL: Your committee has requested a report on H.R. 2722, a bill to supplement the act of April 26, 1906 (34 Stat. 137), entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," and for other purposes.

We recommend that the bill be enacted with clarifying amendments discussed below.

The act of April 26, 1906 (34 Stat. 137), was intended to provide for the disposition of all of the lands of the Five Civilized Tribes either by allotment to the individual members of the tribes or by sale, for the division of all tribal funds among the members, and for the dissolution of the tribal governments. The present bill will provide the authority that is necessary to complete this program for the Choctaw Tribe, which is one of the Five Civilized Tribes.

The bill was introduced at the request of the tribal representatives. The tribal representatives consulted the Department about the substantive provisions of the bill, and the Department provided technical drafting services at the request of the tribe. The bill was initiated by the tribe, and we are glad to endorse the program and concur in the recommendation that the bill be enacted.

The bill does not apply to the allotted lands of individual Choctaw Indians. The trust or restricted status of those lands will continue to be governed by the presently existing law. The bill applies only to tribal assets, and after the program authorized by the bill is completed the Federal Government will cease to have any special relationship to the tribe as an entity.

Three categories of tribal land are involved:

Class 1: The remaining tribal lands that were not allotted during the allotment period. They consist of approximately 7,731 acres owned jointly by the Choctaws (a three-fourths interest) and the Chickasaws (a one-fourth interest).

Class 2: Lands acquired subsequent to 1906 under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), or the Oklahoma Welfare Act of June 26, 1936 (49 Stat. 1967). These lands consist of approximately 8,610 acres held in trust for the Choctaw Tribe alone. (Fifty-two tracts are held in trust for the lifetime of an individual Indian and thereafter in trust for the Choctaw Tribe.) The minerals in these lands, however, are vested in the United States

rather than in the tribe, and the income therefrom is earmarked for use for the benefit of Indians in Oklahoma.

Class 3: Submarginal lands acquired for the use of the Choctaw Tribe under the land use adjustment program undertaken during the middle 1930's. Our records indicate that there probably are no lands in this category held for the Choctaw Tribe, but a complete search of the records has not been completed. The retention of this category in the bill will cause no difficulty, and it will be useful if the records should disclose any such lands.

The bill directs the Secretary to sell all three classes of land, together with a one-half interest in the minerals in class 1 and class 2 land and the entire mineral interest in the class 3 land. The proceeds from the sale will be deposited in the U.S. Treasury to the credit of the tribe, and the Secretary is directed to distribute per capita these funds together with all other tribal funds that are now on deposit. The funds now on deposit are—

Proceeds of lands, etc., Choctaw Indians, Five Civilized Tribes, Oklahoma:	
Per capita	\$32, 827. 87
General	120, 390. 38
Interest and accruals on interest, proceeds of lands, etc., Choctaw Indians, Five Civilized Tribes, Oklahoma, per capita	4, 930. 43
Proceeds of labor, rehabilitation projects, Choctaw Indians, Oklahoma	5, 123. 16
Interest and accrual on interest, proceeds of labor, rehabilitation projects, Choctaw Indians, Oklahoma	8, 238. 69
Awards of Indian Claims Commission, Choctaw Nation, Oklahoma, per capita	235, 000. 00
Interest and accruals on interest, awards of Indian Claims Commission, Choctaw Nation, per capita	26, 946. 04

The Choctaw portion of the reserved mineral interest will be transferred within 3 years to a tribal corporation or trustee organized under State law that is designated by the tribe and approved by the Secretary. We understand that the tribe intends to incorporate a foundation to take title to and administer this reserved asset. The Chickasaw portion of the reserved mineral interest will continue to be held in trust by the United States until a program for the Chickasaw Tribe is formulated.

Subsection 1(b) of the bill provides an alternative to the sale of the three classes of land. If the tribal foundation organized under State law wants to retain title to any part of the land, including all mineral rights therein, it may do so.

Subsection 1(c) of the bill deals with a special problem created when the Government purchased several tracts of land and took the title in trust for individual Indians for their lifetime and thereafter in trust for the tribe. Fifty-two tracts are involved. At the time the Federal purchases were made, most of the tracts were surplus allotments that were about to be lost by the Indian owners because of nonpayment of State taxes. Because the grantor was given a life estate in trust, the purchase price did not represent the full value of the land and sometimes represented only the cost of the abstract and any liens against the land.

The trust title applies only to the surface of the land. The Oklahoma Indian Welfare Act, under which the lands were purchased, provides that the subsurface rights are owned outright by the United States, and only the income therefrom is earmarked for the purpose

of rehabilitating Indians in Oklahoma. It is improbable, however, that any grantor understood that mineral rights in the land were being conveyed to the Government in a nontrust status.

Because of this background, the bill gives the life tenant or his heirs full title to the land. As between the life tenant and the tribe, the life tenant has the more equitable claim to both the surface and the subsurface. As between the Indians and the United States, the mineral rights are restored to the owner of the surface rights because the United States did not intend to acquire them in a proprietary capacity.

Section 3 protects the interests of any individual Indian who may be occupying under a lease or permit land that is subject to sale by giving him the right to purchase the land at the highest competitive bid therefor, less the appraised value of any improvements he may have placed on the land if the improvements were not a part of the consideration for his lease.

The 1906 act provides for the appointment of a principal chief of the Choctaw Tribe by the President. This authority has been delegated to the Secretary. The bill repeals this statutory provision, and the members of the tribe will have full authority to select their own officers. If a tribal foundation is incorporated as proposed, the selection of officers will be controlled by the provisions of the corporate charter.

The Choctaw membership roll was closed on March 4, 1907, and 19,139 members were listed. Per capita distributions under the bill will be made to the members of this roll or to their heirs or legatees. No payment of less than \$1 will be made, however, and any per capita distribution of tribal assets that is not claimed within 7 years after the Secretary announces the procedure for submitting claims will escheat to the tribe by operation of law and will be transferred by the Secretary without any further proceedings to the tribal foundation if it has been organized. If no foundation has been organized the unclaimed money will escheat to the U.S. Treasury and be deposited in miscellaneous receipts. This provision of the bill is also made applicable to unclaimed per capita payments that are already on the books, but in order to prevent a retroactive effect the bill allows 2 additional years after the date of the act in which such Indian may claim the money.

The tribal foundation, if organized as proposed, will become the successor in interest to the Choctaw Tribe for all purposes, and the Federal Government will cease to have any special relationship to the tribe.

The following clarifying amendments would be desirable:

1. On page 3, line 18, before "only" insert "an unrestricted title to". This is for purposes of clarification and to make the language conform to the language used in lines 1 and 2.

2. On page 6, line 24, and again on page 7, line 20, the word "devisees" should be changed to "legatees" in order to conform to usual terminology.

3. On page 7, line 22, the phrase "without application of the Indian" was intended to refer, and we believe does refer, to an application for the per capita and not to an application for the deposit to the

individual Indian money account. In order to prevent any misunderstanding, however, we suggest the following amendment:

On page 7, line 22, after "without application of the Indian" insert "for his distributive share of the tribal asset involved."

4. On page 7, line 16, change "after" to "until" in order to make the sentence structure correct.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ROGER ERNST,
Assistant Secretary of the Interior.

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